

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.180 OF 1991

The State of Maharashtra

...Appellant.

V/s

1. Narendra Singh Bhairosingh

2. Hargyan Singh Jabbarsingh
Both Vendors of Caterin Dept.,
Central Railway, Pune.

...Respondents.

Shri D.P. Adsule, APP for the appellant.

Shri L.R. Singh for respondent Nos. 1 and 2.

CORAM: V.M.KANADE,J.
DATE: 30th November, 2004

ORAL JUDGMENT:

1. Heard the learned APP appearing on behalf of the appellant - State and the learned Counsel appearing on behalf of the respondents.

2. The State has challenged the judgment and order passed by the Additional Chief Metropolitan Magistrate, 3rd Court, Esplanade, Bombay in C.C. No.21/P/86. By the said judgment and order dated 5/9/1990, the Additional Chief Metropolitan Magistrate acquitted the accused of the offence with which they were charged under section 420 and 468 of the Indian Penal Code.

3. The Prosecution's case is that the accused were working in the Railways and they were removed from the service in 1984. The allegation against these accused was that they produced a letter dated 23/03/1985 which was purportedly written and signed by Shri Madhavrao Scindia, the Minister of State for Railways, Government of India. It was mentioned in the said letter that these two persons should be reinstated in the service on permanent basis. A complaint was filed. Offence was registered under various provisions of the Indian Penal Code. Charge Sheet was filed. From the evidence adduced by the prosecution, it can be seen that the prosecution has failed to establish that the letter which was produced by the accused was, in fact, a forged letter. The essential ingredients of forgery, therefore, have not been proved. Apart from that, from the evidence of P.W.1 - R.L. Acharya who was the Officer in the Central Railway (Vigilance), it can be seen that he was, in fact, not aware of the names of the accused whereas, in the the FIR which was lodged by him, names of both these persons have been shown as accused. Further, from the evidence of P.W.2 - Pathak and Acharya, it can be seen that there is a discrepancy in their evidence.

4. The Trial Court, in my view, has correctly appreciated the evidence on record and has held that the prosecution has not proved the case against the accused. In my view, there is no reason to interfere with the said order. The view taken by the Trial Court is a possible view. Appeal is, therefore, dismissed.

V.M. KANADE, J.